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January 9, 1995

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RECEIVED

JAN 9 1995

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

RE: CC Docket No. 94-129 - In the matter of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

Dear Secretary:

Enclosed are an original and six copies of **JOINT COMMENTS OF THE MISSOURI OFFICE OF ATTORNEY GENERAL, THE MISSOURI PUBLIC SERVICE COMMISSION, AND THE MISSOURI OFFICE OF THE PUBLIC COUNSEL** for filing in the above-referenced matter.

Please file stamp the extra copy for return to our office. Thank you for your attention to this matter.

Sincerely,

Elisabeth H. Ross

Elisabeth H. Ross, Esquire
on behalf of the
Missouri Public Service Commission

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of

**Policies and Rules Concerning Unauthorized
Changes of Consumers' Long Distance Carriers**

CC Docket No. 94-129

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JOINT COMMENTS OF

**THE MISSOURI OFFICE OF ATTORNEY GENERAL
THE MISSOURI PUBLIC SERVICE COMMISSION
THE MISSOURI OFFICE OF THE PUBLIC COUNSEL**

In its NOTICE OF PROPOSED RULEMAKING ("Notice") in this docket, the Federal Communications Commission ("FCC") proposes rules that prescribe the form and content of the letter of agency ("LOA") for changing long distance carriers and prohibit offers or inducements of any kind from being part of the letter of agency document.

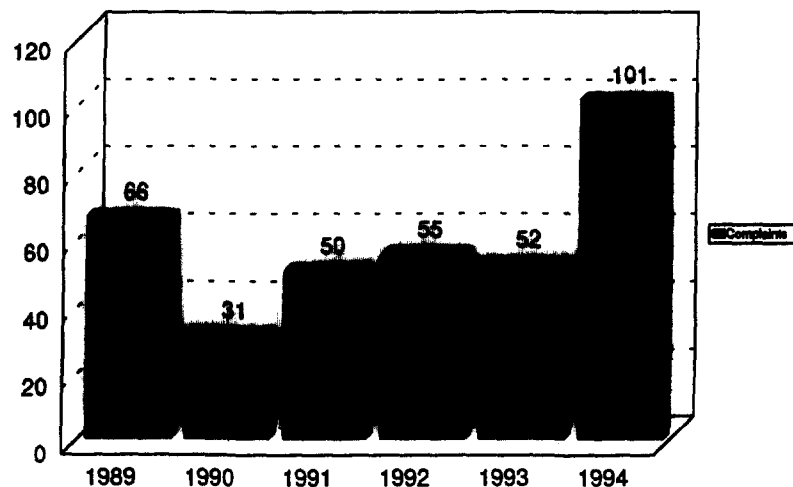
Known throughout the industry as "slamming", the practice of changing the chosen primary interexchange carrier ("PIC") of individual consumers or business consumers in an unauthorized manner or a manner whereby the consumer unknowingly authorizes the change has been and continues to be a problem in the State of Missouri. Inasmuch, The Missouri Office of Attorney General, the Missouri Public Service Commission (the "MoPSC"), and the Missouri Office of the Public Counsel (the "MoOPC") hereby jointly comment on this Notice of Proposed Rulemaking.

I. RESIDENTIAL AND BUSINESS CONSUMER COMPLAINTS RESPECTING "SLAMMING" ABOUND IN MISSOURI.

In the Notice of Proposed Rulemaking, the FCC indicates that numerous complaints regarding "slamming" have been received from telecommunications consumers. The Missouri Office of Attorney General, the Missouri Public Service Commission, and the Missouri Office of the Public Counsel have and continue to steadily receive complaints from consumers who allege that they have unknowingly authorized a change in their interexchange carrier or have been switched from one carrier to another with no authorization. The graphic below trends the volume of complaints received annually by the Missouri Public Service Commission during the past six years. In addition, the Missouri Office of Attorney General had 43 complaints alleging unauthorized PIC changes in 1994. The Missouri Office of the Public Counsel also receives numerous "slamming" complaints and forwards them on to the Missouri Public Service Commission.

Slamming Complaints 1989 - 1994

Received by the Missouri Public Service Commission



Source: Missouri PSC Consumer Services Department

Residential consumers, business telecommunications users, and even pay telephone users have been affected by unauthorized or unknowingly authorized PIC changes. Although these PIC changes are effectuated by numerous means, a primary method to instigate such changes is through a LOA combined with an inducement. Hence, the Missouri Office of Attorney General, the MoPSC, and the MoOPC are strongly in favor of stringent limitations respecting the use of LOA's and various inducements.

II. THE MISSOURI OFFICE OF ATTORNEY GENERAL, THE MoPSC, AND THE MoOPC SUPPORT THE RESTATEMENT OF EARLIER LOA REQUIREMENTS AND ARE STRONGLY IN FAVOR OF THE LIMITATION OF AN LOA TO SOLELY AUTHORIZE A PIC CHANGE.

The parties mentioned above are strongly in favor of the restatement and organization of the earlier LOA requirements into a standard rule as presented in the Notice¹. The Missouri Office of Attorney General, the MoPSC, and the MoOPC concur with the FCC that the inclusion of an inducement on the same document as an LOA only leads to misrepresentation and consumer confusion. Therefore, the Missouri Office of Attorney General, the MoPSC, and the MoOPC support the proposed rule whereby a prohibition would be placed against the use of any type of inducement on the same document as the LOA.

The Missouri Office of Attorney General, the MoPSC, and the MoOPC do not oppose the use of inducements, but strongly favor prescribed language of a specific nature on both the LOA and any inducement material. The Missouri Office of Attorney General, the MoPSC, and the MoOPC also support the usage of the same font, type style (e.g. bolding, underlining, italics, etc.), color, and

¹Federal Communications Commission Notice of Proposed Rulemaking, CC Docket No. 94-129, adopted November 10, 1994, Appendix A.

point size on both the inducement and the LOA.

The present practice of using large print for the inducement and very small print in inconspicuous locations on the LOA is presently seen as a source of confusion. For example, an inducement consisting of a negotiable instrument such as a check is easily recognized as a source of money, but is not always recognized as an endorsement for a PIC change. The problem not only lies in the fact that the inducement and LOA are on the same document, but also in the source of confusion due to the design of the inducement and LOA. Below the endorsement line on the check is the language authorizing the PIC change. More often than not, this language is printed in such a small size as to be ignored in its entirety by the consumer. The Missouri Office of Attorney General, the MoPSC, and the MoOPC believe that [1] if the inducement and the LOA are on separate documents, [2] if the inducement and the LOA are printed in such a manner as to avoid the use of small print, and [3] if prescribed language is used, the need for separate mailings for inducements and LOA's is mitigated and the potential for consumer confusion will be significantly reduced.

III. THE MISSOURI OFFICE OF ATTORNEY GENERAL, THE MoPSC, AND THE MoOPC FAVOR ADDITIONAL PRESCRIBED LANGUAGE ON THE LOA'S SENT TO BUSINESS CONSUMERS.

Given the potential for employees of a particular business to unknowingly authorize a PIC change for the business, the Missouri Office of Attorney General, the MoPSC, and the MoOPC are in favor of the addition of specific prescribed language to be added to LOA's sent to businesses. Following the signatory line on the LOA, the FCC should require the inclusion of a new field for the individual executing the LOA to indicate that they indeed have the authority to effectuate a PIC

change for the business.

IV. THE MISSOURI OFFICE OF ATTORNEY GENERAL, THE MoPSC, AND THE MoOPC SUPPORT ABSOLVING CONSUMERS OF LIABILITY FOR PAYMENTS TO OPTIONAL CALLING PLANS AFTER UNAUTHORIZED PIC CHANGES AND ARE IN FAVOR OF ADJUSTMENTS TO LONG DISTANCE TELEPHONE CHARGES WHEN AN UNAUTHORIZED PIC CHANGE HAS BEEN MADE.

At a minimum, to the extent that the amounts billed by the unauthorized IXC exceed that which would have been incurred had the PIC not been changed, the difference between the amount charged by the unauthorized IXC and the authorized IXC should be the burden of the unauthorized IXC. The Missouri Office of Attorney General, the MoPSC, and the MoOPC believe, however, that a true incentive against the practice of slamming would be to prevent any charges from being collected by an unauthorized carrier.

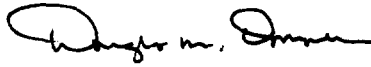
V. THE MISSOURI OFFICE OF ATTORNEY GENERAL, THE MoPSC, AND THE MoOPC STRONGLY SUPPORT THE CAPTIONING OF LOA'S.

The Missouri Office of Attorney General, the MoPSC, and the MoOPC believe that captioning of LOA's would clarify the intent of the LOA and lessen consumer confusion. Hence the Missouri Office of Attorney General, the MoPSC, and the MoOPC support the use of captioning and are in favor of specifically prescribed language and required typographical styles for LOA captions.

The Missouri Office of Attorney General, the MoPSC, and the MoOPC commend the FCC on taking the initiative to alleviate the problems associated with unauthorized PIC changes. The Missouri Office of Attorney General, the MoPSC, and the MoOPC believe that the strengthening of

consumer safeguards with respect to "slamming" will be beneficial in efforts against deceptive marketing practices aimed at telecommunications consumers.

Respectfully submitted,



Douglas M. Ommen
Acting Chief Counsel
on behalf of

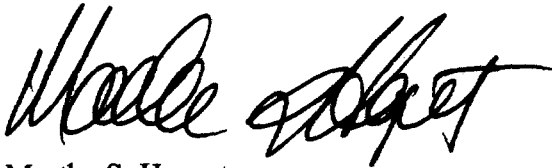
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the entities shown below, and all entities as shown on the attached service list by the 9th day of January, 1995.

Ernest H. Pen

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